

VZCZCXRO2641
OO RUEHCHI RUEHDT RUEHHM RUEHNH RUEHTRO
DE RUEHGO #0818 3560914
ZNY CCCCC ZZH
O 220914Z DEC 09
FM AMEMBASSY RANGOON
TO RUEHC/SECSTATE WASHDC IMMEDIATE 9689
INFO RUCNASE/ASEAN MEMBER COLLECTIVE
RUEHGG/UN SECURITY COUNCIL COLLECTIVE
RUEHBY/AMEMBASSY CANBERRA 2367
RUEHNE/AMEMBASSY NEW DELHI 5861
RUEHUL/AMEMBASSY SEOUL 9427
RUEHKO/AMEMBASSY TOKYO 7046
RUEAIIA/CIA WASHDC
RUEHGV/USMISSION GENEVA 4725
RUEHBS/USEU BRUSSELS
RHEHNSC/NSC WASHDC
RHHMUNA/CDR USPACOM HONOLULU HI
RUCNDT/USMISSION USUN NEW YORK 2795
RUEKJCS/SECDEF WASHDC
RUEKJCS/JOINT STAFF WASHDC

C O N F I D E N T I A L RANGOON 000818

SIPDIS

STATE FOR EAP AND IO
PACOM FOR FPA

E.O. 12958: DECL: 12/22/2019

TAGS: [PGOV](#) [PREL](#) [PHUM](#) [BM](#)

SUBJECT: BURMA: SUPREME COURT TO HEAR AUNG SAN SUU KYI
APPEAL

REF: A. RANGOON 676

[1](#)B. RANGOON 799

Classified By: P/E Chief Jennifer Harhigh for Reasons 1.4 (b) & (d)

Summary

[1](#)1. (SBU) Burma's Supreme Court has agreed to consider an appeal of the August conviction of Aung San Suu Kyi (ASSK) and her two assistants. ASSK's lawyers argued December 21 for admission of the appeal, and the Supreme Court announced its decision the same day. The Court has yet to set a date for the hearing. The Supreme Court also accepted the Burma Government's appeal of a lower court finding that Burma's 1974 Constitution is invalid. End summary.

Supreme Court to Consider Appeal

[1](#)2. (C) ASSK lawyer Kyi Win (aka Neville) told us December 21 that ASSK's legal team delivered arguments before the Supreme Court for one hour and fifteen minutes the morning of December 21. The Court later that afternoon agreed to hear the appeal (known as a "revision" in Burmese legal parlance). A final hearing date is expected soon; the Supreme Court generally posts scheduling announcements on Fridays.

[1](#)3. (C) ASSK's lawyers have told us the Supreme Court generally allows two-three weeks for case preparation. National League for Democracy spokesman and ASSK lawyer Nyan Win told us the legal team expects only one Supreme Court session. Only lawyers need be present and no witnesses will be called. Once they receive official appeal-related documents from the Court, ASSK's lawyers will seek GOB permission to meet with her to discuss the case, according to Nyan Win.

Second Level of Multi-Stage Appeal Process

[1](#)4. (C) The Supreme Court revision is the second level of appeal. In October, Rangoon's Divisional Court considered the first appeal but upheld the lower court's conviction (Ref

A). ASSK's lawyers have told us they will pursue all available avenues for appeal. If the forthcoming Supreme Court revision is unsuccessful, a final round of appeal to Burma's "Special Supreme Appeals Court" is possible. (Note: According to Nyan Win, this is a two-stage process in which two Supreme Court judges would hear the case and decide whether to admit it, followed by consideration of the case by a panel of three Supreme Court judges.)

Supreme Court Also to Hear GOB Case

15. (C) Meanwhile, Nyan Win confirmed that the Supreme Court on December 21 also agreed to hear the GOB's case for overturning the Divisional Court's finding that the 1974 Constitution is no longer valid (Ref B). As with ASSK's appeal, the Court has yet to schedule the hearing date.

Comment

16. (C) The decision by the Supreme Court to hear the appeal is not a surprise, since the GOB has been allowing the appeals process to play out step by step. Ultimately, the generals in Nay Pyi Taw will do in ASSK's case what they judge is in their best interests, and we still expect the Supreme Court to uphold the original conviction. Nonetheless, each level of appeal offers a potential face-saving opportunity for the government to release ASSK.
DINGER